

**DECISION**  
**GRAFTON PLANNING BOARD**  
**MODIFICATION #3**  
**MAJOR COMMERCIAL SPECIAL PERMIT (MCSP 2001-7.3)**  
**& SITE PLAN APPROVAL**

RECEIVED TOWN CLERK  
GRAFTON, MA

2017 MAR 28 AM 11 32

**Expansion of Existing Bakery and Associated Parking**  
**73-81 Creeper Hill Road, North Grafton**

**John Colorio of Colorio Realty, LLC d/b/a Dimitria Delights, Inc. (Applicant / Owner)**

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of John Colorio of Colorio Realty, LLC d/b/a Dimitria Delights, Inc. (hereinafter the APPLICANT/OWNER) for Modification #3 of a Major Commercial Special Permit & Site Plan Approval (SP 2001-7.3) to expand the existing bakery facility, for property located at 73-81 Creeper Hill Road (hereinafter the SITE) and shown on the Grafton Assessor's Map 18, Lot 33, by deed recorded in the Worcester District Registry of Deeds Book 4993, Page 101. The application was formally received on January 25, 2017.

**I. BACKGROUND**

The above referenced application for Modification #3 of a Major Commercial Special Permit (SP 2001-7.3) & Site Plan Approval (hereinafter Application) was submitted on January 25, 2017. Notice of the public hearing and the subject matter thereof was published in the Grafton News on February 9 and February 16, 2017, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on February 27, 2017 and continued on March 13, 2017. During the public hearings, all those wishing to speak to the petition were heard. Following public input the hearing was closed on March 13, 2017.

The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk David Robbins, and Members Linda Hassinger and Tracy Lovvorn. At the hearing, Norman Hill of Land Planning, Inc. representing the Applicant / Owner presented the proposal. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

This Application is requesting a third modification. The permitting history for this Applicant / Owner is as follows:

Permit Reference	Request	Board Action
MCSP 2001-7	Construct a 21,980 square foot addition to existing bakery	Approved, August 27, 2001
Modification 1	Minor Modification – installation of flour silo system	Deemed Minor; Approved on October 27, 2008
Modification 2	Accessory Use: use existing unused apartment for a security guard apartment	Approved January 12, 2015

## **II. SUBMITTALS**

The following items were submitted to the Board for its consideration of this application:

- EXHIBIT 1.** Pre-Application Materials submitted by Norman Hill, Land Planning, Inc., received on January 18, 2017; including the following materials:
- a) Correspondence from Norman Hill, Land Planning, Inc., dated January 6, 2017, 3 pages.
  - b) Certified Abutters List signed by the Assessor's Office on 11/30/16; 1 page.
  - c) Certificate of Good Standing signed by the Treasure Collector's Office on 12/27/16; 1 page.
  - d) Property Maps, no date; 3 pages.
  - e) Quitclaim Deed, Book: 49933, Page: 101, dated November 09, 2012; 4 pages.
  - f) Stormwater Report, Dimitria Delights Expansion; prepared by Land Planning, Inc., dated January 5, 2017; 114 pages.
  - g) Plan Set, Building Addition Site Development Plan Located at 81 Creeper Hill Road; prepared by Land Planning, Inc.; dated January 6, 2017; 7 sheets.
- EXHIBIT 2.** Plans; TcFlow – Pre & Post Development Areas; prepared by Land Planning, Inc.; no date, received January 23, 2017; 2 sheets.
- EXHIBIT 3.** Application Materials submitted by John Colorio (Applicant / Owner), received on January 25, 2017; including the following materials:
- a) Application for Modification of a Major Commercial Special Permit & Site Plan Approval; dated December 25, 2016; 1 page.
  - b) Correspondence from Norman Hill, Land Planning, Inc. re: Submission or revised plans, additional information and request for waiver; dated January 25, 2017, 2 pages.
  - c) Revised Plan Set, Building Addition Site Development Plan Located at 81 Creeper Hill Road; prepared by Land Planning, Inc.; dated January 6, 2017, revised through January 24, 2017; 7 sheets.
- EXHIBIT 4.** Site Visit Report, Dimitria Delights, December 13, 2016; prepared by Graved Engineering; received December 13, 2017; 2 pages.
- EXHIBIT 5.** Public Hearing Notice; stamped in with Town Clerk on February 6, 2017; 3 pages.
- EXHIBIT 6.** Correspondence from Land Planning, Inc., Submission of Revised Employee Numbers; dated and received February 6, 2017; 1 page.
- EXHIBIT 7.** Correspondence from Graves Engineering, Inc. re: Dimitria Delights – Building Addition, 73-81 Creeper Hill Road, Site Plan Review; dated and received February 17, 2017.
- EXHIBIT 8.** Revised Application Materials, submitted by Land Planning, Inc.; received February 22, 2017; includes the following:

- a. Correspondence from Land Planning, Inc., Submission of Revised Site Plans, Dimitria Delights, 73-81 Creeper Hill Road, Grafton; dated February 23, 2017; 2 pages.
- b. Revised Plan Set, Building Addition Site Development Plan Located at 81 Creeper Hill Road; prepared by Land Planning, Inc.; dated January 6, 2017, revised through February 22, 2017; 7 sheets.
- c. Stormwater Report, Dimitria Delights Expansion; prepared by Land Planning, Inc., Revised February 22, 2017; 114 pages.

**EXHIBIT 9.** Correspondence from Graves Engineering, Inc. re: Dimitria Delights – Building Addition, 73-81 Creeper Hill Road, Site Plan Review; dated and received February 27, 2017; 3 pages.

**EXHIBIT 10.** Public Hearing Sign In Sheet for February 27, 2017 hearing; 1 page.

**EXHIBIT 11.** Written Request to Continue the Public Hearing to March 13, 2017 signed by Norman Hill, received at the February 27, 2017 public hearing; 1 page.

**EXHIBIT 12.** Revised Application Materials, submitted by Land Planning, Inc.; received February 22, 2017; includes the following:

- a) Correspondence from Land Planning, Inc., Submission of Revised Site Plans, adding a Reserve Parking Lot, and Request for Waiver, Dimitria Delights, 73-81 Creeper Hill Road, Grafton; dated March 1, 2017; 1 page.
- b) Revised Plan Set, Building Addition Site Development Plan Located at 81 Creeper Hill Road; prepared by Land Planning, Inc.; dated January 6, 2017, revised through March 1, 2017; 7 sheets

**EXHIBIT 13.** Correspondence from Graves Engineering, Inc. re: Dimitria Delights – Building Addition, 73-81 Creeper Hill Road, Site Plan Review; dated and received March 2, 2017; 2 pages.

**EXHIBIT 14.** Public Hearing Sign In Sheet for March 13, 2017; 1 page.

### **III. FINDINGS**

At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to make the following Findings:

- F1.)** That determinations regarding the following findings are based upon the documents and plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Application.
- F2.)** That determinations regarding the following findings are also predicated upon conditions set forth in this decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.

- F3.)** That the Site is located in an Office / Light Industrial (OLI) zoning district. The site is not located within the Water Supply Protection Overlay District.
- F4.)** That the Applicant requested a waiver from Section 4.2.2 – Off Street Parking Schedule of the Grafton Zoning By-Law (see **FINDING #F7** and **WAIVER #W1**).
- F5.)** That during the public hearing the Applicant presented the proposed modification to the previously issued Major Commercial Special Permit SP 2001-7 and Site Plan Approval. Mr. Hill reviewed the site plan showing the proposed 13, 646 square foot addition to the existing and previously approved 47,442 facility which accommodates a bakery operation. The purpose of this addition is to allow for the installation of additional production lines used in the bakery operations. He explained that the bakery produces a number of items that require separate production lines and equipment. The existing facility has the square footage to accommodate one production line at a time while other production line equipment is stored on site in a box trailer. Changing production lines requires a complete change out of equipment between the box trailer and the existing facility. The new addition would allow for multiple production lines to be housed within the facility thereby increasing efficiency. Mr. Hill noted that the site is served by sewer and water. There would be no changes to the location of the loading dock and the existing trash compactor would be moved to a new location.
- F6.)** That during the public hearing the Board and the Applicant discussed the nature of staffing requirements with the proposed changes. Mr. Hill noted that only one production line is run at time and that the new configuration to bring the second production line into the facility would not require additional staff. Only one production line is run at a time.
- F7.)** That during the public hearing the Board and the Applicant discussed parking. It was noted that Section 4.2.2 of Zoning By-Law requires a certain number of parking spaces per square foot based on the use and floor area of the facility. Mr. Hill reviewed the parking calculations noting that a waiver is requested. The increase in floor space will not result in an increase in number of people on site (see **FINDING #F6**). He reviewed the existing parking configuration noting that the existing box trailer would be moved from its existing space once the equipment was moved permanently inside the facility. He noted that 38 additional spaces in a gravel area can be accommodated. The Board noted that nature of the use of the proposed addition and the fact that there will be no increase in existing personnel on site makes it difficult to meet the off street parking requirements. It was noted that the site could accommodate all the required parking (119 spaces) on the northern portion of the site which now accommodate a baseball field. The Board noted that Section 4.2.5.2 – Reserve Parking provides for allowances that might address this particular issue. The Applicant was instructed to revised the plan set to show reserved parking and to recalculate the off street parking in light of the provisions of Section 4.2.5.2. The Applicant submitted the requested revised material (see **EXHIBIT #12**). The revised plan set shows a total of the required 119 parking spaces, 32 of which are now shown on the plan as “reserved” in accordance with Section 4.2.5.2 of the ZBL. The peer review consultant, Graves Engineering, noted in their final review that “The plans were revised to include the conceptual layout of reserve parking on the softball infield to accommodate 32 vehicles. We understand that access to these parking spaces would be gained through the right field area of the softball field. We have no issues with the conceptual parking layout.” (See **EXHIBIT #13**).

- F8.)** The Board notes that its peer review consultants, Jeff Walsh of Graves Engineering, Inc., had submitted several peer review reports regarding the ongoing development and revisions to the proposed plan set (see EXHIBITS #4, #7, #9 & #13). At the close of the public hearing there were outstanding issues of concern (see EXHIBIT #13) raised by the peer review consultant.
- F9.)** The Board finds that no written comments were received from the general public or Town Departments during the course of the public hearing (see Section II: Submittals).
- F10.)** During the course of the public hearing the Chairman invited members of the audience to provide public input. None was received.

#### **IV. WAIVERS**

- W1.** At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **GRANT** the Applicant's request for a waiver from **Section 4.2.2 – Off Street Parking Schedule** from the Grafton Zoning By-Law.

The Board and the Applicant discussed the off street parking requirements in relation to the nature of the bakery operations in terms of number of employees and number of working shifts in light of the proposed additional square footage (see FINDING #F7). No new employees are proposed at this time and the existing parking area along with the proposed parking in a gravel lined lot on the southwestern area of the site provides the required parking for the existing employees. However the additional square footage would result in requiring more parking spaces. The Grafton Zoning By-Law only calculates parking requirements based on use and floor area, not the number of employees in relation to the specific use or operations. The Board recognizes that while no new employees are proposed at this time the potential for additional employees is present. The Board further notes that the Applicant did address the issue under the provisions of Section 4.2.5.1 – Reserved Parking of the ZBL.

The Board notes that in granting this waiver request that there were unique circumstances in light of the proposed use of the addition and the revised plan which provides parking in reserve if the expansion should require the addition of new employees.

#### **V. DECISION AND CONDITIONS**

At their meeting of March 27, 2017, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 by roll call vote (L. Hassinger – AYE; Robbins – AYE; R. Hassinger – AYE; Lovvorn – AYE; Scully – AYE) to **APPROVE** Modification #3 of Major Commercial Special Permit (MCSP 2001-7.3) and Site Plan Approval with the following conditions:

**A. Standard Conditions**

1. This Approval is for the third modification of Major Commercial Special Permit MCSP 2000-7. Unless otherwise modified this by this Decision, all Conditions of the primary Decision remain in full force and effect.
2. Any modification to the approved Plans shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision.
3. All site development and construction shall be performed in accordance with the Decision and approved Plans as modified by Condition B1 as well as with all applicable Federal, State and Town laws, ordinances and regulations.
4. Construction of the improvements shown on the Plans approved as part of this Decision is subject to approval by the Grafton Conservation Commission. Any Order of Conditions and/or permits issued by the Conservation Commission with respect to this Application are hereby incorporated by reference and shall constitute a condition of this Decision. If such Order of Conditions and/or permits require substantial modifications to any of the plans approved by the Planning Board, the Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision.
5. All grading and construction shall be performed in accordance with the Plan, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any non-permitted pollutants or siltation into waterways during construction or after completion of the subdivision.
6. This Decision and full Site Plan Set approved and modified in accordance with Condition B1 of this Decision shall be recorded in the Worcester District Registry of Deeds (WDRD) prior to any ongoing Town review and / or peer review associated with conditions set forth in this Decision. The Applicant shall submit evidence to the Planning Board that this Decision and full Site Plan set have been recorded at the WDRD, including a copy of such recording bearing the WDRD Book and Page Number and/or Instrument Number. By recording this Decision and full plan set as modified in Condition B1 at the Worcester Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Major Commercial Special Permit Decision, and which acceptance shall bind the Applicant and its successors and assigns. The Applicant / Owner will notify the Planning Board within ten (10) days for recording said documents at the Worcester District Registry of Deeds.
7. All construction and site improvements shall be completed within two years of the date of plan from the date of this Decision. This Decision shall lapse after said applicable time period, and no other work may occur, and the modification approval shall be deemed automatically rescinded unless the Planning Board grants an extension pursuant to Section 1.3.3.8 of the Grafton Zoning By-Law. Requests for extensions shall require a public hearing in accordance with all applicable requirements for conducting such hearings as set forth in the Grafton Zoning By-Law.



8. Any inability or failure or refusal by the Applicant to comply with the Conditions of this Decision, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

**B. Conditions to be met prior to the Start of Any Construction Activity**

1. The Conditions set forth in this Decision shall be inscribed on a sheet of the Plans suitable for recording at the Worcester Registry of Deeds (WDRD). Such sheets shall be recorded at the Worcester District Registry of Deeds in accordance with Condition A7 of this Decision.
2. Prior to the commencement of work, the Planning Board shall be provided with the following:
  - a. Four (4) full size, 24" x 36", endorsed and recorded plan sets, one of which shall be sent directly to the Town's peer review consulting engineer.
  - b. An electronic copy of the endorsed and recorded plan set. The electronic copy shall be in a "PDF" compatible format.

**C. Conditions to be met prior to the Start of Any Construction Activity**

1. Construction shall only occur Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m., and there shall be no construction activity on State or Federal holidays.

**VI. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant's application to add an building addition to accommodate the bakery expansion and associated parking based on the information received at the public meeting and the aforementioned findings, and subject to the aforementioned conditions.

<u>Michael Scully, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Tracy Lovvorn, Member</u>	<u>AYE</u>
<u>David Robbins, Clerk</u>	<u>AYE</u>		

**DATE OF FILING OF DECISION: BY ORDER OF THE BOARD**

  
\_\_\_\_\_  
Joseph Laydon, Town Planner

3-28-2017  
\_\_\_\_\_  
Date

cc: Applicant / Owner

- |                           |                           |                      |
|---------------------------|---------------------------|----------------------|
| • Graves Engineering      | • Building Inspector      | • Board of Assessors |
| • Assistant Town Engineer | • Conservation Commission | • Board of Health    |

**To Whom It May Concern:** This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

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Donna Girouard, Town Clerk

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Date